IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 20322 of 2004

Between:

1 Smt. G. Victoria, W/o. G.S.Rao,
Tondangi Village and Mandalam, E.G. District.
2 Kalina Babu Rao, S/o. Veerraju,
Thondangi Village and Mandalam, E.G.District.

..... PETITIONERS

AND

1 The Commissioner, Temple Lands & Endowments,

Govt of A.P. Tilak Road, Hyderabad.
2 The Regional Joint Commissioner, Temple,

Endowments Dept., Kakinada. E.G.District.
3 The Asst. Commissioner,

Temple & Endowments Land, Rajahmundry, E.G.District.
4 The Executive Officer,

Pithapuram Endowments Land, Pithapuram, E.G.District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to set aside the impugned letter RC.No./A3/4666/2004 dt. 23.10.2004 of R2 as it is illegal, arbitrary, discriminatory and violation of principles of natural justice and further direct the respondents to allow the petitioners to continue to cultivate the said lands on lease as usual or to purchase on sale.

Counsel for the Petitioners: MR.G.PAVANA MURTHY

Counsel for the Respondents 1 to 3: G.P FOR ENDOWMENTS

Counsel for the Respondent 4: SMT. N.INDRANI

The Court at the admission stage made the following :

ORDER:

The petitioners, two in number, filed this writ petition seeking a writ of Mandamus assailing the orders passed by the 2nd respondent-Regional Joint Commissioner, dated 23-10-2004 as arbitrary and illegal.

The petitioners claim to be the cultivating tenants in respect of Ac.4.68 Cents of wet land situated in Sy.No.538 of Thondangi Village belonging to the 4th respondent.

As can be seen from the material on record, the petitioners made a claim before the 3rd respondent-Assistant Commissioner of Endowments stating that they are landless poor persons and therefore entitled for benefit of Section 82(2) of the A.P.Charitable and Hindu Religious Institutions & Endowments Act, 1987(for short 'the Act'). The said claim was rejected by the 3rd respondent by an order dated 28-07-2004, holding that the 1st petitioner is not a tenant of the land in question and therefore she is not entitled to the relief as prayed for. As regards the 2nd petitioner, he was held to be a cultivating tenant to an extent of Ac.4.68 Cents of wet land, and therefore he does not fall under the definition of landless poor person and consequently not entitled to the benefit of Sec.82(2) of the Act. Aggrieved by the said

orders the petitioners made representations before the 2nd respondent. The said representations were rejected by proceedings dated 23-10-2004 holding that the 1st petitioner is not the tenant and that the 2nd petitioner K.Babu Rao is holding an extent of Ac. 4.68 cents of wet land for the past 20 years and that since the said extent is beyond the limit prescribed under the explanation to Section 82(2) of the Act, he cannot be considered as a landless poor person and therefore not entitled to the statutory benefits. Aggrieved by the said orders, this writ petition is filed.

Having heard the learned counsel for both the parties and on perusal of the material on record, I do not find any infirmity in the orders passed by the respondents 2 and 3. Though the learned counsel for the petitioners vehemently contended that the 1st petitioner is also a tenant in respect of the land in question, in the light of the concurrent finding of fact recorded by the two authorities holding that the 2nd petitioner alone is the tenant in respect of the land and since admittedly, the extent of the land held by him is more than Ac. 2.50 cents, as rightly held by the respondents 2 and 3, he cannot be held to be a landless poor person within the meaning of the explanation to sub Section (2) of Section 82 of the Act.

Accordingly, the writ petition is dismissed. However, this shall not preclude the petitioners to participate in the auction if any conducted by the 4th respondent in respect of the leasehold rights of the land in question.

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05-11-2004

vs

To

1 The Commissioner, Temple Lands & Endowments,

Govt of A.P. Tilak Road, Hyderabad.
2 The Regional Joint Commissioner, Temple,

Endowments Dept., Kakinada. E.G.District.
3 The Asst. Commissioner,

Temple & Endowments Land- Rajahmundry, E.G.District.
4 The Executive Officer,

Pithapuram Endowments Land- Pithapuram, E.G.District.

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